

265 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37174-2018 (O&M)

Date of decision-22.01.2019

Beant Singh

....Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. S.S.Bedi, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. Rakesh Sobti, Advocate for respondent No.2.

MANOJ BAJAJ, J.

The complainant has filed this petition to challenge the order dated 13.07.2018 (Annexure P-6) passed by the revisional Court whereby it has upheld the order dated 23.08.2017 (Annexure P-4) passed by the trial Court, dismissing the application under Section 311 Cr.P.C moved by the complainant for adducing additional evidence.

Learned counsel for the petitioner contends that only evidence which is sought to be adduced at this stage is judgment and decree dated 22.02.1990 (Annexure P-3) as the same is essential for effective adjudication of the case.

On the other hand, learned State counsel and learned counsel appearing on behalf of respondent No.2 opposed the application on the ground that the same is being filed to fill up the lacunae and therefore, the

application has been rightly dismissed by the trial Court.

Learned counsel for the parties have been heard and with their assistance, I have gone through the case file carefully.

It is not disputed that the trial ended in acquittal through judgment dated 17.08.2013 passed by the Chief Judicial Magistrate, Amritsar. Aggrieved against this judgment of acquittal, an appeal was carried by the complainant before the Appellate Court through Criminal Appeal No.579-2014. The said appeal was decided on 19.08.2015 (Annexure R-2/I) whereby the judgment of acquittal was set aside by Additional Sessions Judge, Amritsar and at the same time, the case was remanded back to trial Court for rehearing of the case. The remand order is founded on the ground that the application under Section 311 Cr.P.C previously filed by the complainant was entertained whereupon the summons were issued to the witnesses. Besides, the statement of the complainant was recorded, however, he was not cross-examined which contains the observation regarding cross-examination as nil. The Appellate Court noticed the fact that evidence of the prosecution was closed by Court order on 03.08.2013. The revisional Court had further observed that since the coercive steps were being taken by the trial Court to secure the presence of the witnesses, therefore, the closure of evidence by order was not correct. It was for this reason, the matter was remanded back for the purposes of rehearing of the case by examining the remaining witnesses.

The order dated 23.08.2017 (Annexure P-4) passed by the Judicial Magistrate First Class, Amritsar contains specific observation

regarding the conduct of the complainant that one more application under Section 311 Cr.P.C was filed by the complainant which was allowed on 17.09.2016 and thereafter, prosecution availed several opportunities to conclude its evidence. However, the evidence was closed by the Court's order on 30.05.2017.

Considering the background and the conduct of the complainant, instead of adducing the evidence, he is prolonging the trial on the pretext of adducing additional evidence. The trial Court proceeded to dismiss the application under Section 311 Cr.P.C. on 23.08.2017 on delay and laches. The revisional Court had also refused to interfere with the order dated 23.08.2017.

In the considered view of this Court, the orders passed by the trial Court is based on correct appreciation of law on the subject. It is evident that the complainant has not been diligent and careful to adduce his evidence despite several opportunities granted previously and therefore, repeated indulgence under Section 311 Cr.P.C would cause prejudice to the accused.

In view of the above, no ground is made out to interfere.

Consequently, petition is dismissed.

(MANOJ BAJAJ)
JUDGE

22.01.2019

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No